

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIE EARL JONES, JR.

Plaintiff,

-against-

J. CIMORELLI,

Defendant.

ORDER TO SHOW CAUSE

19-CV-05288 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff Willie Earl Jones, Jr (“Plaintiff”), proceeding *pro se* and *in forma pauperis*, commenced this action on June 4, 2019 and alleges that correctional officer J. Cimorelli (“Defendant”) injured Plaintiff while he was detained at the Orange County Jail. (Doc. 1). Defendant answered Plaintiff’s Complaint on September 17, 2019. (Doc. 18). On March 17, 2020, this case was reassigned to me.

By letter dated August 23, 2020 and filed via ECF on August 27, 2020, Plaintiff requested permission to file an Amended Complaint. (Doc. 37). By order dated August 28, 2020, the Court granted Plaintiff permission to file an Amended Complaint by October 1, 2020. (Doc. 40). To date, Plaintiff has not filed an Amended Complaint.

On November 6, 2020, Defendant notified the Court that Plaintiff was released from NYSDOCCS on September 23, 2020 and that Plaintiff failed to appear for his medical examination which had been scheduled for October 27, 2020. (Doc. 44). Defendant asserts that the demand for a medical examination was delivered to Plaintiff at the correctional facility prior to his release. (*Id.*).

The Court has not received notice from Plaintiff providing an updated address. Plaintiff was notified that, in the event that his address changes, he must notify the Court of his new address,

and failure to provide such notification may result in dismissal of his action. (Doc. 5 at 2 (“[I]t is Plaintiff’s obligation to promptly submit a written notification to the Court if Plaintiff’s address changes, and the Court may dismiss the action if Plaintiff fails to do so.”); Doc. 7 at 4 (“Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.”)).

Under Federal Rule of Civil Procedure 41(b), “a district judge may, sua sponte, and without notice to the parties, dismiss a complaint for want of prosecution” *Taub v. Hale*, 355 F.2d 201, 202 (2d Cir. 1966); *see also West v. City of New York*, 130 F.R.D. 522, 524 (S.D.N.Y. 1990) (“[T]he Supreme Court has recognized the inherent power of a district judge to dismiss a case for the plaintiff’s failure to prosecute.”); *Lewis v. Hellerstein*, No. 14-CV-07886, 2015 WL 4620120, at *1-2 (S.D.N.Y. July 29, 2015) (dismissing *pro se* plaintiff’s complaint for want of prosecution after the plaintiff failed to file an amended complaint or submit other filings to the court for four months); *Haynie v. Dep’t of Corr.*, No. 15-CV-4000, 2015 WL 9581783, at *1-2 (S.D.N.Y. Dec. 30, 2015) (dismissing *pro se* plaintiff’s complaint for want of prosecution after the plaintiff failed to respond for six months).

Here, Plaintiff failed to timely amend his Complaint (or request an extension of time to do so), failed to appear for his medical examination, and failed to notify the Court of a new address after his release from the correctional facility. Plaintiffs’ failure to prosecute this action has impeded the Court’s efforts to “avoid calendar congestion and ensure an orderly and expeditious disposition of cases.” *Cortez v. Suffolk Cty. Corr. Facility*, No. 15-CV-1957, 2016 WL 6302088, at *2 (E.D.N.Y. Oct. 25, 2016). Though the Court is mindful of Plaintiffs’ *pro se* status, Plaintiffs’ lack of effort in prosecuting this action may be indicative of an intent to abandon this action.

Accordingly, it is hereby ORDERED that Plaintiff show cause in writing on or before December 14, 2020, why this action should not be dismissed with prejudice for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b). Failure to comply with this Order will result in dismissal of this case for want of prosecution.

The Clerk of Court is respectfully directed to mail a copy of this Order to Show Cause to Plaintiff at the address provided on the docket.

SO ORDERED:

Dated: New York, New York
November 16, 2020



PHILIP M. HALPERN
United States District Judge